

**Town of Milton  
Planning & Zoning Commission Minutes  
December 11, 2007  
7:00 p.m.**

**Members Present:**

Linda Rogers  
Bill Brierly  
Michael Filicko

Dean Sherman  
Gene Steele

Ted Kanakos  
Louise Frey

**Others Present:**

Robin Davis  
John Brady

Bob Kerr

Debbie Pfeil

**Linda Rogers called the regular meeting to order at 8:55 p.m.**

**Item #2 & #3 - Additions/Corrections/Approval of Agenda:**

Linda Rogers: Are there any corrections to the agenda? Yes there are. In a conference with Bob Kerr and our attorney, they feel that the bottom 3 items which are all reviews for Chestnut Properties which is Cannery Village. We simply need to change the order. So we're going to do the agenda as Item A, Item B, Item D, Item E and then Item C, so that we can work on 2B, which part of 2B is supposed to go into 2C, so we have to rearrange the order. Does anyone else have any additions or corrections to the agenda? If not, I'll entertain a motion to approve the agenda as amended.

Dean Sherman: So moved.

Linda Rogers: We have a motion, is there a second?

Ted Kanakos: Second.

Linda Rogers: We have a motion and a second, all in favor say "Aye". Opposed – None. So moved.

**Item #4 – Approval of Minutes:**

Linda Rogers: Does anyone have any additions or corrections? If not, I'll entertain a motion?

Dean Sherman: Motion to approve the minutes as written.

Linda Rogers: We have a motion to approve the minutes as written, is there a second.

Bill Brierly: Second.

Linda Rogers: We have a motion and a second, all in favor say "Aye". Motion carried.

**Item #5 – Items of Business:**

**a. Revision to Final Master Plan**

The applicant, Heritage Creek, is requesting a revision to the final master plan. The property is located on Route 5 further identified by Sussex County Tax Map and Parcel # 2-35-20.00-56.00.

Linda Rogers: Is there someone present in behalf of this application?

Jeff Clark: I'm a landscape architect with the firm of Landtech Land Planning in Ocean View, DE and I'm here this evening to represent the applicant, Carey Communities, Inc. and the project, Heritage Creek. We have before you here this evening a proposal to amend a piece of the master plan you all approved back in '04 to accommodate some changes which we feel are market driven on our part and also determined to be unnecessary based on some of the

experiences we've been seeing in other communities in the areas and if I may step away from the mic for a minute and point to the plan...

Bill Brierly: You can pull the mic out.

Jeff Clark: This plan that's on the exhibit board here is actually a copy of the approved plan. I want to draw you attention to the central part of the plan, or where the main entrance comes in off of route 5, into the gateway of the community, we had on the approved plan a number of mixed use buildings that started right at the intersection of Rt 5 and went in to the interior of the site that extended the first block or block and a half if you will of the project. And by mixed use I mean we had a retail-first floor and apartments above and then following that we had a community center that was right behind the retail section of the community. What we've learned in looking at the some of the experiences in the other communities is that this retail component in a community of this size is really not going to be successful and so we want to take this opportunity now given that things are a little bit slower and we have some opportunity to change some of our plans to bring this to the town and suggest that we...I'll turn now to the other plan that I have on this board that is the proposal before you this evening to replace that mixed-use component then with single family detached homes out to within a block of Rt. 5. That then draws...we haven't tampered with the traditional neighborhood design concept, the street layout as it relates to the main gateway of the boulevard, if you will, leading into the site is unchanged. We're simply replacing the mixed-use buildings there with single family detached lots. That's one of the changes. The second change in that same block, as you recall, we had the community center in this location. We have now moved it up into the end of the same street, but it's at the end of Heritage Boulevard, or this main drive that comes into the center of the site. So we've shown this blank area here as the new community center location and then as a result of those changes, then we have replaced all of this parking field and what we called a retail building...we've replaced all of that with housing in the area that's adjacent to the school site. And again, if you look at the proposed land-use plan where that was once a field of parking and a commercial proposal, it is now been replaced with housing that would be centered on or fronting up Central Street. The result here then is where we had on the approved plan we had 26 apartments that were above those retail buildings. We now are recommending on tonites plan that that would be paired down to 9 apartments that would then occur in these 4 buildings...the smaller, much reduced retail center that's right on Rt. 5 at the entrance to the property and the total density of the site is unchanged. You approved 425 units in the original plan and 425 units remain. The original plan at the gateway showed a retail component if you will with a parking lot on either side of the entrance with a park that led up to that and went through that with a pedestrian walkway and we're proposing that the retail now would all be oriented to the middle school side of the entrance and that this then would be a continuation of that same park, so now all of these homes that are on these corner lots would now be viewed from Rt. 5 across that park directly to the front...much the same as the southern part of the site was on the original plan. So, essentially that is our request. Again we are not adding any density; we're not changing any roads, but we are reconfiguring the street system in this area by virtue of that change from retail to residential. The configuration is similar in maintaining this traditional approach to town planning. These units that we're introducing are still fronting a street with street parking and they have an alley behind them where you would access your garage and that would be the service side of the residences. We have met with, informally, with your town engineer before this was proposed just to try to learn what impacts this might have on all the infrastructure that the street systems, sewer systems, water lines, etc. and it looks like most of this can be accommodated with little fanfare as relation to the changes and those documents. That will take place assuming we have your blessing with this new plan tonight. So with that, before we move to the next item which is kind of a focus on a piece of this plan, I'll be glad to answer any questions you might have in respect to the changes we proposed on the master plan.

Bill Brierly: Sir, one of the town engineer's remarks indicates that the LPD master plans site data had a total of 416 units whereas the proposed revised master plan shows 425 units. Is that a discrepancy?

Jeff Clark: That's a typo and we'll correct that before we bring that back as a final. Actually, Mr. Kerr found a number of those and we apologize for that. We'll make those corrections that he's identified.

Bill Brierly: So the total was...what are the actual numbers?

Jeff Clark: 425 is the...

Bill Brierly: 425 is the real number?

Jeff Clark: Yeah, and again I apologize. 425 was the number approved originally and will be the number that remains. The only change is the mix of those units. Again, the primary difference is from apartments to town homes or residences from 26 to 9, the reduction in the number of apartments. And I don't remember during the public hearing process there really wasn't any discussion from the Town's people regarding the amount of retail we had here but if it would have any benefit it might drive further the need here in the downtown area which I'm sure would be supported.

Linda Rogers: Does anyone else have any questions? Bob, do you want to go over your comments?

Bob Kerr: Good evening, Town Engineer. Concerning the master plan, most of my comments on the memo are as much informational as anything. One of the issues that you need to determine this evening, Item 1, basically the no public hearing is necessary for this change as long as you consider it a minor change. If it's a master or significantly changed, then it would have to go before a public hearing, but that's something you need to do or decide. As Jeff has already said, the changes include a relocation and enlargement of the community center area, or reduction in the commercial area and a change in the types of housing. The number of units, 425, remains unchanged. Some of the lot numbers are labeled incorrectly. It's more of a housekeeping item that can be done before final approval. The commercial square footage has been significantly reduced but the numbers haven't been changed in the data column. One of the bigger issues that I had was the new road that runs near the Cape Henlopen School where the road goes up to a T, and then it runs into alleys at each end of that T. That means that your main traffic more or less would use the alleys as either entrances or exits and that puts a lot more traffic potentially on the alleys that the proposed road section may not support and with the alleys being only 15' wide, it makes two-way traffic more difficult. So that's something I think you should further discuss. And then as Jeff said, I was concerned about the area to the right of the main entrance. It was originally shown to be commercial and Jeff has stated that it's going to be open space and then some of the numbers on the recorded site plan, or the areas, need to be adjusted and changed based on the approved...they just copied the old numbers on. And then Item # 9 is determining whether these are significant changes that alter the master plan or whether it is something that can just be handled this evening. And then all of the...it's important to know that all of the additional, or original conditions, or approval of the original master plan as far as the number of lots and setbacks and everything remain unchanged.

Linda Rogers: On the plan that he's referring to the alley that's next to Cape Henlopen School...

Jeff Clark: Yes

Linda Rogers: There's just this large area here, like why isn't this street not extended or is that just completely yard area or...?

Jeff Clark: Well, the open area in the front there is, and we have that repeated a couple of times...this is actually a park, just as we have here, for these homes that front on, and the guests of these homes would park either on the street here, on the street here, and of course the residents would park in their garages that are accessed from the alleys.

Linda Rogers: So they're actually in the front park area and garage in the back entrance would be from the alley so Cape school, all they are going to see is garages and back alleys.

Jeff Clark: They are going to see garage doors, that's correct.

Linda Rogers: The traffic would be next to the school for these residents?

Jeff Clark: When they use their driveways, that's correct.

Linda Rogers: And there are sports fields on that, backing up to them, correct?

Jeff Clark: There are indeed. There's the football field that's the shape you see with a circle around it. It's actually a football field with a track. And then the other shapes there are soccer fields and I believe this is either softball or baseball. And we do have...the alley doesn't...the edge of pavement doesn't physically touch the property line so if that was a concern we could certainly introduce the fence there; we thought that would be more attractive; we thought for some reason that was going to be a problem

Linda Rogers: I don't know if that would be a problem, I just...

Jeff Clark: It might keep an errant ball from rolling into the alley or something if we had a hedge or fence or something there...if they're playing soccer and the ball gets away from them, at least there's something for it to bang into before rolls over into private property.

Linda Rogers: Now in the back where it's Governor Boulevard, would there be any type of fencing or anything there because that's also backing up to the sports fields? Or were you going to have some type of landscaping there?

Jeff Clark: Well, there was none part of the original plan that we discussed and...

Linda Rogers: Right.

Bob Kerr: There are some trees shown to be along there but not landscaping that would really block the view.

Linda Rogers: Does anyone else have any questions?

Ted Kanakos: The area that's a park, the blank space up there, will there be a problem in extending the road through for any reason? And do you have trucks going in, in the main and then they have to take a left or a right on that T and cut back and go down the alley? That could to be a problem for traffic flow? Emergency vehicles, fire trucks, things like that? Everything will go down the alley? It doesn't seem to be the most expedient way, even for the residents.

Jeff Clark: I actually...these residences I didn't see, it's really whatever you would have us do. We didn't see any of these folks making their way out of the community going up this way. It'd usually be drawn to the entrance of the community so if you leave your home, as a planner, I would...we were thinking that you would be drawn to the entrance, not into the heart of the community...not that there wouldn't be an occasional person drawn that way, but we could also sign that and not prevent, or prevent folks from taking this T and going up there. But, to answer your question more directly, certainly we could extend the street up there. It just makes...we'd lose this park area in front of these homes and that's possibly a trade-off for the...

Ted Kanakos: That gives maybe the only area that has a parking area for the homes? There you have made the streets going up in boulevards.

Jeff Clark: That's correct. That's a different alignment. That's correct. I would consider that being the end of the world for us to throw in a street up there.

Linda Rogers: Anyone else?

Jeff Clark: Let me just make one more observation to something that we had discussed. Half the plan was prepared and submitted, is that we would like to also bring the plan back to you with these corrections on that we're discussing. To flip this arrangement and have the community center in this part of the block if you will, and these homes oriented the other way so that it's more central and the...you've seen the billboards for this community around that have the community center on it, that nice Victorian building, then you would see that as you entered the community right at the head of that boulevard, and I think that might be a more appropriate look for this if you would agree.

Ted Kanakos: The area just to right of the entrance...to the left you have the new commercial properties going down...to the right of now, is that being planned for expansion later on for additional commercial?

Jeff Clark: This or that?

Ted Kanakos: No, you have the existing.

Jeff Clark: This?

Ted Kanakos: Yes. In the future, do you plan on doing any expansion into there in commercial building?

Jeff Clark: No Sir. The only commercial now that we're showing...before we would come back to you and change the plan if we did...would be right here. This is actually our vision here now to extend this park area to come clear up to the entrance so that all of these homes when you view them from 5 or across that park...

Ted Kanakos: That is simply dedicated park area?

Jeff Clark: Yes, Sir.

Linda Rogers: Are there any other questions or comments? This is not considered major changes in the master plan?

John Brady: That's the initial discussion you have to have. When you look at the major from the way our code is written, you look at if they had said they've taken it from 425 units to 630 units, that's an increase of 1/3. That's major. There is no change in the numbers. You have previously allowed reallocation and that's what this issue is in part of a reallocation of residential units between different categories. There is no...there is a reduction of amount of commercial, but there's also no change in density and there have been minor roadwork changes and you allow that to come in as an amendment in the past. So based on your previous determinations that this appears to be minor and that's why when I reviewed it I categorized it as such, but it's your determination in the first motion you need to do is to whether or not to consider it minor or not, because if you determine it is not minor, then a public hearing has to be held and public comment so the matter would be deferred until January so it could be properly noticed for public hearing. If you determine it to be minor in nature, then you can go ahead and proceed with the vote on the matter as it was properly noticed as required by the Town's Zoning Codes.

Linda Rogers: So do we need to make a motion in reference to it being a minor?

John Brady: Yes.

Linda Rogers: Okay. Do we all...are we in agreement that this is a minor, can we consider it a minor change since the density remains the same?

Bill Brierly: Want to do a roll call?

Linda Rogers: Yes, once we make a motion.

Dean Sherman: I make a motion that we recognize this as a minor change.

Linda Rogers: We have a motion to recognize this application to being a minor change, is there a second?

Bill Brierly: Second the motion.

Linda Rogers: We have a motion and a second, roll call vote:

Ted Kanakos: Yes, it's minor

Bill Brierly: Yes

Dean Sherman: Yes

Linda Rogers: Yes

Michael Filicko: Yes

Louise Frey: Yes

Linda Rogers: Okay, motion carried unanimously that this is going to be considered a minor change. So now we make a motion to accept the change as submitted? If that's what they want to do?

John Brady: That's correct.

Linda Rogers: Is there anyone that has any other questions of the applicant or any other concerns to discuss? If not, would someone like to make a motion?

Ted Kanakos: I would like to make a motion that we approve this but with the road running completely through that proposed park area, extending that road out to, I think it was Governor's.

Jeff Clark: I should know that but I don't have the road names recognized.

Ted Kanakos: Governor's Boulevard.

Jeff Clark: Prospect Street.

Ted Kanakos: That would be Prospect Street all the way down into that commercial area?

Jeff Clark: Yes Sir.

Ted Kanakos: I would like to see that; those Prospects rejoined in the middle.

Linda Rogers: That was in the form of a motion?

Ted Kanakos: Yes

Linda Rogers: We have a motion to accept this change to the master plan with the exception of running Prospect Street completely through the Park and all the way out to the commercial areas.

Jeff Clark: May I also have you consider in your motion this suggestion that I've made here?

Linda Rogers: Would you like to amend your motion?

Ted Kanakos: Yes, to include the reversal of, how would you describe it?

Jeff Clark: The community center.

Ted Kanakos: The community center and the realignment of the buildings within that same area.

Jeff Clark: Yes sir.

Linda Rogers: So now the motion is revised that we recommend that we approve this revision to the master plan by flipping the commercial center to be more forward onto Garden Street, and then the houses will be configured behind it and also to run the street, Prospect Street, all the way straight through to the commercial area, alleviating the proposed park area. Is there a second to that or any question to the motion? Do we have a question?

Michael Filicko: Ted, why do you want to do away with some of the green space park land and have a road go all the way through there?

Ted Kanakos: Simply for egress and regress of the community. It's the only area; these are the only houses basically aside from the new community area that will have that feature. All the rest have main roads, two-way roads basically. I find this to be a sort of a stoppage.

Michael Filicko: For the alley...I see.

Ted Kanakos: Yes. It would take very little to block the alleys and it should be wide open; it should be a flow through.

Bob Kerr: There could be small open areas where the roads T off so that there would still be green space where there's now road shown. It could become an open space so its not a long line of houses; there's a break on the road.

Michael Filicko: So there still will be a significant amount of green space there, even though there's a road going through there?

Jeff Clark: Well the green space...there will be two 50'-wide blocks which we can either introduce in the center of the block or portion it out. The space now is someone's front yard. The space as Mr. Kerr's suggesting will be someone's side yard to be shared; just a different...

Ted Kanakos: Excuse me, when you say the side yard, the buildings that are adjoining the commercial space, those two green lines right there, the highway, the road Prospect, or whatever, would go through it, stop right there. Where are the front doors of these houses?

Jeff Clark: They would be on the street.

Ted Kanakos: Okay. And they would be facing the road?

Jeff Clark: Yes, Sir.

Ted Kanakos: And they have lawn also in front of their house?

Jeff Clark: Well, the homes are very closely spaced to the street but yes.

Ted Kanakos: Very closely spaced, so the others wouldn't be as closed to the space even with a road? It seems to be a distance between them which is greater than the other.

Jeff Clark: The open space would be between side yards as it is here. It's just I'm trying to answer the question is instead of it being a front yard area, but it does address this alley traffic issue.

Dean Sherman: Are you going to eliminate the T if you put the road straight through there?

Jeff Clark: I'll eliminate the T as far as it being a traffic feature yes, it will just be a straight shot with a street, but the open space will remain and we'll...

Dean Sherman: The break in the rows of units will still be there...

Jeff Clark: Yes.

Dean Sherman: And that'll become green? Right, that's what he's saying.

Jeff Clark: And it may even occur...when we lay it we may chop it in half and put it in two spaces or do something with it but that space will remain in that block.

(Dean Sherman: Speaking amongst members – unintelligible.)

Linda Rogers: Okay. So we have a motion. Does everyone understand the motion? Do we have a second?

Ted Kanakos: I would like to add something to that also that all existing conditions remain.

Linda Rogers: Of the original approval?

Ted Kanakos: Of the original.

Linda Rogers: Okay.

Jeff Clark: Such as setbacks, etc.

Linda Rogers: Okay, all the original conditions to go along with this revision. Is there a second to that motion?

Dean Sherman: I'll second that motion.

Linda Rogers: We have a motion and a second all in favor...Roll call vote:

Ted Kanakos: Yes

Bill Brierly: Yes

Dean Sherman: Yes

Linda Rogers: Yes

Michael Filicko: Yes

Louise Frey: Yes

Jeff Clark: Thank you very much.

Linda Rogers: No we'll do number B, right? The next item on the agenda is:

**b. Revision to Record Plan for Phase 2**

The applicant, Heritage Creek, is requesting a revision to Phase 2 record plan.

The property is located on Route 5 further identified by Sussex County Tax Map and Parcel # 2-35-20.00-56.00.

Jeff Clark: As a follow-up discussion into the amendments to the master plan, just to refresh your memory, we had two phases of the approved plan identified earlier that you approved for construction. Phase 1 is actually the area that's separated if you will by the woods and is the wooded subdivision. It doesn't even show up on this plan, but it is the...I'll show you on the master plan...Phase 1 is this cul-de-sac subdivision portion of the community. Phase II as it is currently approved is a linear, it actually follows the main boulevard entrance into the site. One of the other driving forces here of the change is to try and bring the construction associated with the initial phase which just happens to be Phase II is to bring it closer to Rt. 5, so they don't look like they are lost out here in the field. So the phase plan that we brought to you tonight to consider, shows the reconfiguration of things as we've just seen them approved, the construction

phase that will be the subject of construction documents that we'll send to Mr. Kerr for review and approval will now be this colored area of the master plan. The change here of course, and these other changes, but this change doesn't actually occur in this phase so it's really a non-issue. This we would look...when we bring this back to you as a final, but...

Linda Rogers: So the yellow ones up at the top are part of Phase II?

Jeff Clark: Yes, Ma'am. There is a logical phase of infrastructure improvements that go in...sewer lines, water lines, etc., and a logical phase that drains to this storm water pond that, and it's really an economic driven decision; there's pieces of infrastructure that are installed here and we can break them logically engineering wise in a cost effective way to serve pieces of the community and build this in steps and this is a result of that analysis that we would build Phase II-a actually comes up to this boulevard so we would build all of these homes initially followed immediately by Phase II-b unless we came back to you for another change. But as we are proposing it to you tonight, this is our strategy to pursue. And if you're in agreement that this is a logical approach to constructing the project, then we'll deliver the construction documents to that, to serve all of the homes in this Phase per your code to your engineer to review and comment on.

Linda Rogers: This isn't really being considered as a preliminary. It's just being considered to do phasing differently than they had originally planned.

Jeff Clark: Correct. I think what they've...the preliminary approval actually occurs, and correct me if I'm wrong, but after we have an agreement on this and we submit the construction documents and they are all in order. The thing that's corrected is actually the record plat that corresponds to this shape that we then record and that's the approval that we would be back to you for.

Bob Kerr: The preliminary approval was given for the entire development and then they came in with the construction drawings for Phase I which are the single family homes off to the right, not shown on this drawing, and what was then called Phase II. This does add lots that were not in the original Phase II so it does require a change to the construction drawings and some things like that, but it's somewhere between a preliminary and a final; it's really an adjustment of the final. It doesn't really fall any place in your subdivision regulation.

Jeff Clark: I guess if you saw something here that for whatever reason that disturbs you the way we're approaching the site that's what we just wanted to show you what our intentions are before we involve your town engineer to review these documents.

Linda Rogers: So because he wants to change his phasing order, he will be submitting plans for review for these phases, correct?

Bob Kerr: There will be construction drawings submitted. There will be some outside agency requirements to be met, and then the biggest thing will be the preparation of a new record drawing that shows the adjusted lot lines and the additional lots. The record plan is the biggest change that's being made.

Linda Rogers: Does anyone else have any questions? Would someone like to make a motion?

Bill Brierly: I'll motion that we accept and approve the changes to the revisions to the record plan for Phase II.

Linda Rogers: We have a motion to accept the changes for the revision plan of Phase II, do we have a second.

Ted Kanakos: I'll Second it.

Linda Rogers: There's a motion and a second, all in favor say "Aye", roll call vote:

Ted Kanakos: Yes

Bill Brierly: Yes

Dean Sherman: Yes

Linda Rogers: Yes

Michael Filicko: Yes

Louise Frey: Yes

Linda Rogers: Motion carried.

Jeff Clark: Thank you very much.

Linda Rogers: Okay, the next item on the agenda is Item d:

**d. Revision to Approved Site Plan for Phase 2B**

The applicant, Chestnut Properties, is requesting a revision to the approved site plan for Cannery Village Phase 2B. The property is identified by Sussex County Tax Map and Parcel # 2-35-20.00-57.00.

Linda Rogers: Is there anyone present in behalf of this application?

Mike Kobin: I'm with GMB; we're the engineers for Chestnut Properties. Does everyone have this supplemental data package? I have some extras if you don't. We'll be referring to that quite a bit.

Linda Rogers: Can I have one please?

Mike Kobin: Okay, the first item here is a proposed revision to Phase II-b plan and if I can draw your attention to the first page of the supplemental data. Originally this area was approved for 4-plex units. There was a community center shown below as future and a small parking area adjacent to that and a little pocket of open space area. Fulham Road made the arc there that you see and came in to Village Center Boulevard at sort of an acute angle. What we're proposing is a shift from 4-plexes to primarily duplex units and a couple single family units and to straighten out the Fulham Drive intersection and make the roadways in that loop two-way instead of one-way streets. The original density in this area was 10 4-plexes for a total of 40 units. What we're proposing here is a grand total of 26. The pocket open space is going to be relocated and we'll talk about that a little bit more later on; adjacent and just below...I'm talking about this area here. I don't know if you...you may recall that we came to you earlier with a proposal for some condominium units in this area and we did, we took what you told us at that meeting into account. We lowered the density and we've reduced the scale of what's going in this area.

Linda Rogers: Does anyone else have any questions? Does anyone have any questions? Bob?

Bob Kerr: Starting with the comments for Phase II-b, as it was just said, the developer's request to realignment of Fulham Drive, this results in a better angle of the road with Village Center Boulevard. It's also changed Fulham Drive from one-way to two-way traffic; that increases the width of the street slightly. The traffic island at the east end, or the top of the drawing has been redesigned. It still needs to be verified that the truck traffic can make the turn now that it's two-way. A new entrance has been provided from Fulham Drive into the existing parking lot; before there was no entrance there. I would like to see additional parking on Village Center Drive right at the intersection with Fulham. There's a bump-out at that point but if parking were provided there, it would give a little bit more room for trucks when they're making a turn on to Fulham Drive or coming off Fulham Drive onto Village Center.

Mike Kobin: Are we talking about the top?

Bob Kerr: No, the bottom.

Mike Kobin: Bottom? Okay.

Bob Kerr: Bottom, yes. Sorry, I forgot that both have the same intersection name. I have stated that there were originally 40 units here and now there are 26 mixed with single and semi-detached units. The construction drawings and final site plans should...will be required to have landscaping, lighting, signage, etc. If there's going to be trash corrals, they should also be provided on the final drawings. This eliminates the clubhouse parcel which has been proposed to be moved to Phase II-c. This would also adjust the boundary of Phase B. There was a drawing, I guess it's been disputed is the best term I can think of right now, that by accepting this

alignment of Phase B takes care of that, there would be new drawings prepared that would supercede all the previous drawings and correct that. The new boundary of Phase II-b runs along the parking lot of the Dogfish Brewery and then across the street, so it takes in the area that was part of II-b because Fulham kind of cuts across that lot but it squares it off essentially. There's also, I've been told, deed records that are not in agreement as far as the property between what the developer owns and Dogfish. That's something that at this point this is a preliminary submission; it needs to be verified prior to final acceptance but it's something that can be worked out during that time. It's one of those, almost like an outside agency thing that can be dealt with as we proceed through the approval process. The area of the parking lot that served Dogfish in that area is subject to a deed restriction from the Department of Natural Resources and Environmental Control. That parking lot was constructed to cap what's buried beneath the sight. It does require prior to excavation of that area approval from DNREC. I understand that a portion of the commercial site (7:54:00 - unintelligible) is within that deed restriction. They're not asking for any approvals tonight for that commercial area; that would come back through a separate site plan at that time that they decide what they are going to do with the commercial area, but it should be on the record plan showing where that boundary is so that anybody looking at the site, looking at the property knows exactly what it is. One of the things we're having trouble with, the Town Hall and myself, is figuring out some of the things in Phase I which has a, b & c and Phase II which is a & b at this point and there is a c. We've talked about there being a...if you approve what is proposed this evening...that a new record plan be developed for all of the phases that shows exactly what's happening. Mayor and Council recently, and I can't remember if it came before you or directly to Mayor and Council, but in Phase II-b kind of out in the center there were like 2 or 3 lots eliminated, and it's going to get to the point that there's just too many drawings to have to check. So as part of this, we would like to kind of a major record plan of the area. And I guess those are the comments I have on this portion. I'd be more than happy any questions you might have.

Linda Rogers: Does anyone have any questions for Mr. Kerr?

Louise Frey: I do. What's buried on the site?

Bob Kerr: I did know at one point. I don't remember now. It has something to do with, I hesitate to say it was some type of a waste product that was buried during the years of operation of the cannery. It may have had something to do with the power house but I can't remember for sure. It has been cleaned up in accordance with the Department's standards but it's part of that it's cleaned up to certain levels depending on what the proposed use of the land is, and as a parking lot that was capped, essentially that keeps water from infiltrating into the ground and causing any problems. So before the cap or the land is disturbed, the Department required the developer, the owner at that time, to record a deed that requires notification to the Department before you do any excavation on the property.

Louise Frey: Thank you.

Linda Rogers: Does anyone else have any questions? Anyone else have any questions?

Michael Filicko: So, Mike, what you're saying is that one area that Ms. Frey just spoke of that will remain parking lot, correct?

Mike Kobin: Yes, the capping was done under this Village Center parking lot. The only area that would require separate approval is this future retail area, so before anything could be done there you'd have to go back through DNREC to get the proper approvals for that. We're not asking for you to approve anything in that area right now, it's just shown there as future use.

Michael Filicko: And DNREC will decide whether or not it is for lack of a better word safe to do; to have something there other than a parking lot?

Mike Kobin: Right. For instance, residential uses are excluded there, but a retail use probably will not be.

Bill Brierly: Mike, it might require some kind of remedial before they can even put this in place.

Mike Kobin: That's true. There may be some conditions. They'll have to go through the approval process before anything can be done with this piece.

Linda Rogers: Does anybody else have any questions? Robin?

Robin Davis: Mike, also on your overview in that supplemental data, you have put an "A – purpose of zoning request". I just want to make it know that this is not a zoning request. I don't know why zoning was put in there. It almost makes it sound like you're requesting a zoning change of some sort.

Mike Kobin: I see, no sorry, that's not our intent.

Linda Rogers: Anything else? Any other questions? Any other concerns? If not, we'll entertain a motion.

Bill Brierly: I motion that we accept the revisions to the site plan for Phase II-B as written, as presented.

Linda Rogers: We have a motion to accept the revisions to Phase II-B as presented, is there a second?

Ted Kanakos: I'll second.

Linda Rogers: We have a motion and a second, all in favor say "Aye", roll call vote:

John Brady: Um.

Linda Rogers: What?

John Brady: You had a lot of discussion about certain questions and conditions and requirements. Remember, when you make your motion if you're going to have any requirements on the revisions, this is where you discuss them. And also whether or not the previous conditions stay in effect.

Linda Rogers: You mean the ones from the original?

Ted Kanakos: Is this where we would request them to review the plans so they are a little more manageable?

John Brady: Yes. Clarity is a key concept here.

Ted Kanakos: Yes.

John Brady: Not Claritin, but clarity.

Ted Kanakos: Well...(unintelligible – talking amongst themselves).

Bob Kerr: A consolidated record plat is what you're after there, right?

Dean Sherman: I think what Bob is saying is that we need to state that we would like a new plan, a new record plan in the interest of clarity to try and better describe Phases I-a, b & c and Phases II-a, b & c. And also that all the existing conditions in the original record plan are to remain on this revision.

Bill Brierly: I would accept Dean's remarks as an addition to my motion, please.

Linda Rogers: Okay. We have a motion and a second, all in favor, roll call vote:

Ted Kanakos: Yes

Bill Brierly: Yes

Michael Filicko: Bob, I'm sorry. On # 10 in your notes, it's recommended that it be addressed by the developer during preparation of the construction plans and the final record plats, each showing the correct meets and bounds should be submitted to the Town prior to the final approval.

Linda Rogers: Right.

Michael Filicko: Tell me, what are we voting on right now for this?

Linda Rogers: The preliminary changes all have to be done before it comes as a final.

Michael Filicko: Okay.

Linda Rogers: That includes all the original provisions. Are you okay?

Michael Filicko: I'm just not sure what's underneath that ground and that's why I'm a little uncertain as to...okay. So that is something that DNREC will take care of and...?

Robin Davis: Anything, before they plan on doing anything, DNREC will make requirements, whether it's to go out there and do more sight borings or whatever, and say we know it's safe.

Mike Kobin: Absolutely. It can't be touched without that.

Bob Kerr: No construction activities can take place on the site without their approval. That approval may require additional sampling, additional air monitoring, certain protective equipment for workers...I'm not familiar enough with the site to say what those requirements might be, but on other sites that have this type of program, it might be that any dirt that's excavated must be put in drums and hauled off that way, those types of things, but it's all overseen by the department and before site plans for that portion would be approved. It would be my recommendation that you have a letter from DNREC so that they are aware of what is being done to this site and is signed off on that particular construction, as in one of the things that is not permitted are residential units. They don't want little kids out in the back yard digging little holes and stuff.

Michael Filicko: But yet commercial was okay?

Bob Kerr: That's up to the Department. They're the ones that set the rules.

Linda Rogers: You got a roll call vote:

Dean Sherman: Yes

Linda Rogers: Yes

Michael Filicko: Yes

Louise Frey: Yes

Linda Rogers: Okay, Motion Carried. Okay, now we're jumping down to Item E:

**e. Preliminary Site Plan Approval for Phase 2C**

The applicant, Chestnut Properties, is requesting a preliminary site plan approval for Cannery Village Phase 2C. The property is identified by Sussex County Tax Map and Parcel # 2-35-20.00-52.00 & 57.00.

Mike Kobin: There are a couple different areas that are involved in this...I'll draw your attention to page 2...we're calling it commercial office area and we've already spoken about the future L-shaped retail. The original plan showed a building that looked just like the one that's here now as a future commercial and office space, 3-story building. That remains in the plan. And then on the opposite side where the L-shaped building is now was a set of live-work buildings and that's been removed...the open space we've talked about earlier. The next piece, I will take you to page 4 in the booklet. You've got a set of 3 duplex units that was, these lots were shown. In the approved Phase II there were no buildings in that but he lots, this layout basically stayed the same as it was. What we're proposing that's different here is 2 two-story, 8 unit condo buildings and I don't know if you recall but the condos that were originally envisioned in here were 3-story, the Hampton Courts, were larger, bigger-scale buildings. We've scaled that down to two-story buildings and the associated parking that goes along with that. There's a rendering of the building itself at the bottom of Page 4. Parking for the duplexes is provided on the lots. Parking for the condos is provided in a separate parking lot. And then just to mention the proposed community center area and the open space area that we'll talk about in greater detail next.

Ted Kanakos: Excuse me. Linda? In the last issue we had with Heritage, it was basically no change. Are these major changes that would call for a new public hearing? I see new buildings; I see new areas; I see new everything.

Linda Rogers: They're not changing the density.

Mike Kobin: No, the density is the same. It's pretty much the same sort of deal. It's just a reallocation of the types of units that were included.

Ted Kanakos: But is density the only thing that would...

Mike Kobin: If you look...

Ted Kanakos: Call for or necessitate a new public hearing?

Mike Kobin: If you look at the area that these buildings are in, the existing, the original plan called for an office building and some live-work units there and then some other live-work units along the street. So overall, density hasn't really changed.

Joe Reed: I'm a member of Chestnut Properties. What I would like to add is that the original LPD approval for Cannery Village included 96 apartments and what we are proposing is 16, so I would argue that that is not a significant change. I mean it's a significant reduction but the original LPD approval for Cannery Village included 96 of this type of unit and what you have before you with our plans and you've got for all the phases is 16 of those units.

Ted Kanakos: The question I was asking is that it's great the reduction of density is going down but moving things around, and to get an opinion, is this a major change in regards to the original application?

John Brady: In regard to their original application, there are some changes here. It has been the precedent of the Planning and Zoning that there have been more significant changes to record plans that have been considered minor in nature than what the applicant is submitting tonight here. Therefore, based on your past precedents, I have reviewed them, that this would be considered not a significantly altering of provision of the approved record plan. This is an alteration but it does not significantly change it especially when you look at the reduction of density. But, when you make your motions, that's the first thing you have to discuss among yourselves. You can agree with me or disagree with me.

Bill Brierly: I have a question about those two 8-unit buildings there. The way the parking lot is situated there, it makes the parking lot really stand out almost like a sore thumb. The engineer had mentioned that those two 8-unit buildings could be relocated along the street with the parking lot on the west side and thereby minimize the view of that parking lot. Is there any reason why this layout is favored over putting those two units along the street and the parking behind them on the west side?

Mike Kobin: I think we'd be happy to explore that. I would like to soften the language on that a little bit though because there are some issues that we have to make sure about. One that comes to mind immediately is that the way the parking lot is set up it provides a primary fire lane in front of the buildings here. On Village Center Boulevard, there's parallel parking along where we want to...where you're talking about fronting those buildings, and that would not qualify as primary fire lane.

Bill Brierly: Will the fire lane still go between the buildings to the parking lots?

Mike Kobin: Well, usually they are pretty strict about having the fire lanes where the entrances are. We'd be happy to look at that but I think the fire marshal would have to be involved in those discussions.

Dean Sherman: where was the access to the parking lot going to be?

(Members speaking amongst themselves)

Linda Rogers: If you were to reconfigure it like this, you would have to...the buildings would actually be fronting on the main boulevard and not into the parking lot, correct?

Mike Kobin: Yes. I think we'd be happy to explore that.

Linda Rogers: Does anyone else have anything they'd like to ask of the applicant? This Phase II-c is just this part below the boulevard, correct? That over there is Phase 2B, this down here is 2C?

Mike Kobin: Yes, with the exception of this area.

(Members speaking)

Linda Rogers: Yeah, but he's saying that that commercial part is part of 2C, or that big part up there, correct?

Mike Kobin: Yes. True.

Linda Rogers: That green block is part of 2C. All of that over there is 2B.

Bob Kerr: If I may, the dividing line is just about down here.

Linda Rogers: Right, I just wanted to make sure I had it...

Bob Kerr: This is part of what is already approved is 2B, and the line is just going to go up here and on around.

Linda Rogers: I just wanted to make sure. Does anyone else have any questions? Bob?

Bob Kerr: Yes. As was stated, this is Phase 2C, that proposes 2, two-story 8-unit residential buildings and 6 semi-detached lots for a total of 22 residential dwelling units. It also contains a clubhouse and a 3-story commercial office building with the first story being commercial and the 2<sup>nd</sup> and 3<sup>rd</sup> being proposed as an office building. Again, no site plan is being proposed for the commercial office building; that would require a separate site plan at a later time. Comments concerning the clubhouse will address as the next item on the agenda. The parking shown exceeds the requirements for the 6 semi-detached dwelling units and the 2 8-unit buildings would require a total of 40 parking spaces and the parking lots shown on the drawing contains 40 spaces. They proposed to use the parking lot for the Dogfish Brewery as parking for the commercial office and then in the back of the booklet that was handed out is an agreement between all of the parties that give the right to use that parking lot and it even spells out maintenance requirements and that type of thing, so there is a, I guess, a joint use agreement would be the easiest thing to call it. It has the same deed restriction on the parking lot for DNREC, it's part of that cleanup area. Item 6 & 7 appear to be the same thing, word processing is great. The existing property lines for the 4-plexes at the bottom of the drawing...they're just barely on this sheet...but it's the original Phase 1A, they are not shown so it's difficult to tell where the boundary for Phase 2C is. It should be shown. The property line around the power house should be shown, so that we know what is dividing, what is part of this. Again, these things can be part of your recommendations for approval and then taken care of during the construction drawing review and final preparation of the record plan. As we discussed a few moments ago, I would prefer to see the buildings face the street so that the parking lot is hidden a little bit more from view. I understand there could be a fire marshal issue but I think it's worth exploring and determining if it is possible. A landscaping plan should be provided. There's some improvements that have been made on the west side of Village Center Boulevard by the Brewery that haven't been reflected on the preliminary; there's curbing and sidewalk over there I believe that hasn't been shown. And then some of the right-of-ways and sidewalks near the 8-unit building seem to be, need to be confirmed and the sidewalk in front of the semi-detached which has been constructed needs to be shown. And then the same recommendation that if this is approved that the record plan be prepared in such a way that it covers all of the property on this side of Round Pole Branch. There's a fencing and coding drawing that we approved several years ago that needs to be updated as part of this process so that Robin knows what fence, what type of housing and everything that is supposed to be provided on each lot when someone comes in for a building permit. And with all the changes that were made to several of the drawings, the number of units table and the parking tables need to be updated and verified one last time and then the kind of typical thing if preliminary approval isn't given, they need to prepare construction drawings and receive all the outside approval agencies before they come back to you for a final approval and then it goes before Mayor and Council for final acceptance.

Linda Rogers: Does anyone have any questions? Does anyone have any questions or comments at all? Okay, the first thing we need to do is to determine whether this is going to be considered major or minor changes to the master plan.

Dean Sherman: I make a motion that we recognize this as a minor change.

Ted Kanakos: I'll second it.

Linda Rogers: We have a motion and a second to consider this a minor change, all in favor, roll call:

Ted Kanakos:	Yes
Bill Brierly:	Yes
Dean Sherman:	Yes
Linda Rogers:	Yes
Michael Filicko:	Yes
Louise Frey:	Yes

Linda Rogers: Motion carried. Next thing we need to do is actually have this review as a preliminary site plan. Does anyone have any comments, concerns or questions about any of the things that have been discussed? Would someone like to make a motion? Would someone like to entertain some type of motion?

Bill Brierly: I make a motion to accept the preliminary site plan approval for Phase 2C with the provision of relocating the two proposed 8-unit buildings so that they face the street with the parking lot on the west side of the building and with the provision that the provision that the property lines need to be shown as outlined in the Town Engineers remarks be shown and that the record plan be combined for Phase 2A, 2B and 2C and re-written as such. And all the original conditions also go with this plan.

Linda Rogers: We have a motion. Is there a second? Any questions to the motion or a second?

Ted Kanakos: Can we incorporate into that all the recommendations of the Town Engineer?

Linda Rogers: Mr. Brierly, you want to include that in your motion?

Bill Brierly: That would be fine with me to include...I'll accept Ted's condition to include all the Town Engineers recommendations.

Linda Rogers: Okay. Is there a second?

Ted Kanakos: I'll second it.

Linda Rogers: We have a motion and a second, all in favor, roll call:

Ted Kanakos:	Yes
Bill Brierly:	Yes
Dean Sherman:	Yes
Linda Rogers:	Yes
Michael Filicko:	Yes
Louise Frey:	Yes

Linda Rogers: Motion carried. The next item on the agenda is:

**c. Preliminary Site Plan for Club House in Phase 2C**

The applicant, Chestnut Properties, is requesting a preliminary site plan approval for a club house in Phase 2C. The property is identified by Sussex County Tax Map and Parcel # 2-35-20.00-57.00.

Mike Kobin: This part I guess we're asking for a little bit of help with in order to try to fast track the construction of the community center for the development. What's proposed here is a I believe 13,500 s.f. building with an indoor pool/spa/fitness center. There's a blowup of it in your information on page 3 I believe. We have...also part of this is an adjacent open space area that was intended to more than replace the small pocket open space area that was eliminated and there was also another small piece that's down where the multi-family units are now. If 14 dedicated spaces directly adjacent to the community center and as was discussed a little bit earlier, there's also parking available on the existing Village Center lot that there is an agreement to use. On page 5 of the supplemental handout is a...shows those uses in the parking area just to

show that there's ample spaces. The lot contains at present 353 spaces. That additional proposed entrance would eliminate 3 which would leave us with 350. The commercial and office space uses that are shown there would use 120 and 61 spaces respectively. We've included 70 spaces for a, what's planned to be a future restaurant area for Dogfish Head Brewery that assumes 5,000 s.f restaurant and 2,000 s.f of outdoor seating. At 200 s.f., one parking space for 200 s.f., there would be 69 spaces required. For the community center, 14 here, there would be 55 available in this lot plus during regular business hours an additional 44 spaces for any special events, and actually during off hours there would be more spaces than that available. Joe, if you don't mind explaining a little bit about the building itself.

Joe Reed: Good evening, again. Actually, I didn't know I was going to be doing this but, we've got an indoor pool, fitness center as Mike mentioned; a lounge. There was some additional retail originally connected to this building but we had a meeting with the homeowners in fact several months ago and there was a concern expressed about having retail as part of this building. We thought some small restaurants or coffee shops might kind of compliment what we were doing but we said we've removed that and we've reduced the size of the building slightly but its got a meeting room. Originally when we were here, I think it's been a year and a half ago to get approval for the clubhouse, there was a second floor meeting room in that building. It was a much smaller building then this club house facility, at that time I believe in the neighborhood of 5,000 sf and we're now at a I think Mike said 13,500 s.f. I don't...there's locker rooms, and we mentioned the fitness center, the lounge, meeting room...it's pretty straight forward. A nice outdoor pool and we think this location is actually an improvement over the previous location because we've eliminated that there's kind of a triangular shaped piece between the power house building as it's referred to which houses WBOC-TV and a neighboring property that was a parking lot and we've...that's going to be a nice green area that the pool is going to back up to that area instead of backing up to the parking lot. And we're going to do some sort of recreational facility on that space. We're not sure exactly what it'll be but some kind of shuffle board or some things like that. Not a tennis court or anything but some form of active recreation, but I'll try to answer any questions if you have on it.

Ted Kanakos: These plans represent the actual footprint of the building without the retail, or is that retail still in there?

Joe Reed: No, that is not retail, that's a meeting/assembly room there. We may on the corner here incorporate basically like a post office; that would be the only thing that could really be deemed retail, but where all the residents would...

Linda Rogers: You have coffee shop listed there, is there going to be some type of little snack facility available in the fitness center or...?

Joe Reed: Yes. That's the plan. That's what we would like to do. But it's really geared just really to the residents of Cannery Village and like a lot of community club houses would contain. If we do, I need a retail and lease any space, it would be in the space across the street that we talked about.

(Talking amongst members)

Joe Reed: I know this is a little bit off the subject, but if I can because I know, I think we have a lot of people here from Cannery Village, because there's been all this talk like when we were talking about those duplexes before, like when Mr. Filicko was asking questions, in that area there is no contamination. I don't know why all this has been coming up in the last 6 months or so but just to kind of clarify the record, when we purchased Cannery Village, Tom Draper the previous owner, when it was a former vegetable canning factory and whatever was my understanding any you know there's been a lot of environmental reports done on that that he was required to do by the DNREC when he removed the cannery. But Tom Draper, I mean he did everything that he was supposed to do. Everything's been signed off by DNREC. He retained Phase 1B and 1C, I think, which is Dogfish Head, the big Dogfish building, the big parking

lot...I believe it's about 7-1/2 acres. We didn't even buy that as part of Cannery Village. That is the area where any remediation that was done...took place. It is my understanding we've had a number of environmental attorneys, I mean the bank required that before we bought Cannery; we reviewed all that, and everybody has said it's a non-issue. It never came up. We went through I don't know, well over a year, of public hearings when we were getting our approvals for Cannery Village, changing the LPD from Draper's plan to our plan. We never heard anything about this contamination issue. Now all of a sudden it's, in the last I don't know it's been maybe in the last 3 or 4 months or something, somebody at the Town has gotten this, I don't know what they've gotten but, and they've been bringing up this issue about contamination. I didn't hear anything about it when Draper built Phase 1A, the 20 4-plexes or when with the Dogfish facility when we were getting all of our approvals for Cannery. It's, I don't know what it's all about but I just want to set the record straight for the people of Cannery Village, it's not a contaminated site and anything...the low levels of...any time you have a buried fuel tank. I mean, I've owned a gas station, former gas station property where I had a real estate office. The same issue, I mean, anytime there's been tanks buried you go through this kind of stuff with DNREC. You have some monitoring wells. I believe the monitoring wells have even all been removed now. There's no ground water contamination. It's basically a non-issue and it seems somebody is trying to make it an issue and it's not good for Cannery Village and it's not good for the Town of Milton. I don't know why it keeps coming up but I just...but where the remediation took place is part of the Dogfish property. It's not even part of Cannery Village. Or it's not part of what's been before you tonight with those duplexes nor with this clubhouse, so there shouldn't be any concern, I guess, to set the record straight. Yes, any questions on the clubhouse, I'll try to answer.

Linda Rogers: Does anyone have any questions in reference to the clubhouse?

Mike Kobin: I guess we're asking you if there's any way we can expedite the approval of this piece.

Linda Rogers: Mr. Brady, is there any way we can expedite the approval of the clubhouse which is within Phase 2C. We've got it going through the same procedure as...since it is a part of 2C?

Mike Kobin: It's directly adjacent to 2B so I don't know if you could annex it into that or...

Linda Rogers: You took it out of B, didn't you?

Mike Kobin: No, that piece of ground wasn't in 2b before.

John Brady: Let me bring out my Kevlar vest. What is the time frame you're looking at for 2C without the clubhouse and 2C part for the clubhouse? See, here's my question. I looked through a lot of precedents done, and I couldn't find one that had a preliminary and a final for part before the final is done for the other part. So I've been thinking about this for the last couple days since I got the engineers report and looking at how it was advertised, and it hit me driving here tonight. One approach could be calling it 2D and moving forward on 2D because there's precedence for breaking it up into phases and with the time frames, the timelines, on phases as in the LPD ordinance that's one way it could be proceeded. My problem is, it was listed as 2C tonight and I have to look at how procedurally notice was given. The second thing I'm looking at is that if it comes in tonight and you've a preliminary approval to 2C, the other part of 2C, if you give preliminary approval tonight to the club house, and then they come back and say we want to move it to 2D and here's the timeline for 2D, and then here's the timeline we're looking at for 2C, that allows what was advertised to be considered tonight and allows you to give the notice to change or modify it to move forward. I would since only 7 people moved after the 1<sup>st</sup> four items on the agenda; I believe the largest groups of people are here for this item. But I have to give proper procedural notice and I have to look at it the way the precedents are done and what I've been trying to do is just balance what you've done previously as a planning commission against what the notice was given for tonight and what the reports came back. So the best answer I have for you is as follows: 1) You can consider what is being proposed tonight as part of 2C. You

may want to ask about the timelines because if someone says expedited, that seems like they want to try and build it at the earliest opportunity and with the attendance out there and the nodding heads in the audience, I think that a lot of people are here wanting to see when that community center is built; 2) Because of everything going on, some phases are approved and the timelines aren't put in place, or the timelines are updated. The other motion you passed earlier tonight to try and consolidate all the record plats are appropriate so we can see these things and have it so we can go right to it. So if you're asking me what you can tonight, the answer is you can consider what has been put on the agenda tonight as Item C, which would be give preliminary site plan approval for a clubhouse. You can come back, and since we have previously said when you divide something into a phase, like we did tonight, for the division of Phase in # B, the revision to record plan, we have already again tonight, said that is a minor adjustment not requiring a public hearing and they've already told me if I broke it up into 2C1 or 2CA or 2CB, that the planner and the town engineer would make it that I'd never get to my vehicle in the parking lot, so I'm suggesting that maybe you want to re-designate it as 2D when it comes back in and have it clearly and you can move forward on 2D quicker than you may want to move forward on 2C based on the prevailing public opinion. But I have to do something. I can't look at public opinion. I'm a lawyer. I have no life but I have the love of the law and I have to follow the law, and that's what it says.

Mike Kobin: Can I ask you one thing?

John Brady: Everyone else is, go ahead.

Mike Kobin: There was in 2B shown a community center and pool. There was not a specific site plan for it; same as there are a couple of retail buildings here that don't have specific site plans. It was understood that we'd have to come back with the specific site plan. Can this be used as that specific site plan?

John Brady: Not tonight and here's why. Because the paperwork, the way it was put on the agenda, was that this was going to be part of 2C. And if I had given notice and it was published a week prior by FOIA, changing that to 2B is under FOIA a material change and unfortunately I've had more experience in FOIA than I've wanted to in the last year.

Bob Kerr: At this point, do you have a timeline when you may come back before Planning & Zoning with the site plan, final approval, for the clubhouse? January, February, March...and I'll ask a year later.

Joe Reed: I would say January if we can do that buy itself.

Bob Kerr: And when would the remainder of 2C be ready?

Joe Reed: That I'm a little less clear on because we need to go back and look at the multi-family area.

Joe Reed: The balance of 2C...I even get confused on these phases...but it's the 6 duplex units back closer to the entrance and that which that part we'd be willing to go forward with right...oh yeah, and that's right, the two-way 8-unit buildings. No across the street, is that 2C, those commercial, retail office and the...?

Bob Kerr: The one closer to the brewery is 2C; the one furthest away is 2B.

Joe Reed: Okay. Well, anyway, I mean if I could just ask...

Bob Kerr: The problem with trying to if its all 2C is that you've got a piece of property that you're going to define the clubhouse property but it's floating within a Phase 2C that isn't recorded. That's the problem I have with it.

Joe Reed: Well, anything that you could do to expedite that, that we can figure out, would be greatly appreciated and just because, as you can see, we've got a big turn out of residents here that want use of it and it's also affecting our sales there. And just to give you a little history, we were here probably a year and a half ago to get approval for the clubhouse where you saw it, where it was shown in that packet and I don't even remember the exact reason we couldn't get approval but it was I think it was with council not you guys, but we were not approved so then

we relocated it to a different area and then because of a purported property line dispute, we could never get it heard and so here we are, almost a year and half later and we're so...really we've got commitments to these folks, the residents, to build a clubhouse. And so anything you could do, would be greatly appreciated.

Bob Kerr: The history is important but if we can kind of move forward from this point I think is more important. Mike, can you give some indication when Phase 2B might be back before planning and zoning?

Mike Kobin: Phase 2B, that's going to kind of depend on you is the....

Bob Kerr: If I expedited and truly expedite, is it January or February or later?

Mike Kobin: I can have the construction plans to you first week of January.

John Brady: Comes back as a final, and you want to move the phase, you can move the phase as that point, making one the phases a divided phase...you can move the phases...

(Discussion amongst members – lot of noise/distortion.)

Mike Kobin: I think what they'd like to do then is just leave the clubhouse in 2C and we'll get that to you as fast as we can.

Linda Rogers: So what you plan on doing is bringing back the entire 2C, including the clubhouse, in January? Construction plans and everything will be to Mr. Kerr in time for review?

Mike Kobin: Right. I think we'd like to roll this into the Phase 2C preliminary approval.

Linda Rogers: Where it's actually sitting anyways...it's actually sitting in 2C?

Mike Kobin: That's correct.

Linda Rogers: Does everyone understand?

Debbie Pfeil: Just so that you know the due dates for Milton are always the first business day of every month, to be considered for the month after that. We will work with you in January depending on the workload to try to get that on the January docket. Like I said, it depends on the workload, but it's the first business day of each month, which would be January 2<sup>nd</sup>.

John Brady: The meeting would be the 15<sup>th</sup>.

Debbie Pfeil: Well, depending on the workload; it's always the next month after that, so we're not going to guarantee that at this point. Your due date is January 2<sup>nd</sup>.

Linda Rogers: Bob, do you have any comments on this clubhouse?

Bob Kerr: Yes. I'm sorry I'm trying to shorten it as much as possible. The clubhouse is approximately 13,760 s.f. plus an outside pool and patio area. There are no property lines shown on the west and north side of the clubhouse that would...it makes it difficult to establish any setback that you so desire. The clubhouse and the pool deck setbacks should be reviewed by you. The previously established setbacks are 10' front yard and a minimum of 5' on the side and the rear of 10'. It appears that part of the pool deck is about 2' from the property line that is part of Phase 2B and part of a property line that goes around some of the open space. The zoning ordinance would require a 200', I'm sorry using 200 s.f. per parking space would require 69 spaces plus whatever you would require for the pool. The zoning ordinance doesn't have a clubhouse so I used a assembly point as the establishment and there's nothing that says whether you would provide additional parking spaces for an outside pool. They're proposing to use, showing 14 spaces on-site and proposing to use the parking lot across the street as part of the brewery for the additional and as stated earlier there's an agreement that allows that, if you also agree with doing that. There's no information shown or provided for fencing of the outside pool whether it's going to be right on the pool deck or whether there's even going to be fencing which I think you would want to require. There's no location of where they're storing trash cans if they're going to be stored outside at all. There's an exit shown on the west side of the building at the bottom of the drawing. There's just doors shown; there's nothing on the site plan that shows it connecting to sidewalk in the parking lot or other location. There's also no...if there is a fence around the pool whether there's an emergency exit. The only way to exit from the

outside pool area is to go through the locker rooms; there's no way to go directly from a public area to the outside pool. Well, I guess to the inside pool either but that's really not something that we as a planning and zoning commission get worried about what's happening inside the building. There's an existing storm drainage pipe beneath the building so it's relocation will need to be addressed during the development of the final site plan. The parking lot, they have curbing on the side but at the end where there's a turn-around, there's no curbing. Curbing should be provided there to prohibit someone from driving across the grass. It's only a short 5-10' before you would enter the power house office building parking lot. It may also be possible to have a bump out...to change the parking in front of the building. This would also need to be passed by the fire marshal office but 6 or 7 additional parking places could be provided right in front of the building. For the final submission, landscaping should be provided and if preliminary approval is given then the outside agencies and construction drawings should be submitted prior to coming back to planning and zoning. And then there's also a checklist of the site plan. And I'd be pleased to answer any questions you might have.

Linda Rogers: Anyone have any questions of Mr. Kerr? Is it possible to provide some type of area for bicycle parking? Just because I can envision in Cannery Village, some people are going to ride their bicycles to this location and go into the building rather than using an automobile they'd walk.

Mike Kobin: That could certainly be arranged.

Bill Brierly: That might be a nice item maybe in the front of the building they're talking about additional parking.

Linda Rogers: Does anyone have any questions or (unintelligible).

Ted Kanakos: I just have one question. This pool and clubhouse, is this strictly for internal use of Cannery Village or will there be memberships offered; will other people come in and out?

Mike Kobin: No, it's just for the residents of Cannery Village.

Ted Kanakos: For the residents?

Joe Reed: Correct.

Linda Rogers: Does anyone else have any questions? Would someone like to make some kind type of motion is no one has any questions?

Ted Kanakos: Basically now we are looking at simply the approval of the two different building changes that you want? The 8-unit and whatever?

Linda Rogers: This is just a clubhouse.

Ted Kanakos: So this is just the clubhouse?

Joe Reed: As a part of Phase 2C.

Linda Rogers: And your intent is to bring the clubhouse in Phase 2C back in January?

Joe Reed: If possible.

Linda Rogers: If possible. Would someone like to make some type of motion?

Bill Brierly: I'll make a motion that we approve the site plan for the clubhouse in Phase 2C and that the provisions for fencing around the pool, trash containers, emergency exits from the pool deck, curbing between the parking lot and the WBOC property, and landscaping be addressed and shown in the next submission. And is there anything else I should add? And bicycle racks at some point around the building, probably in front of the building if possible. And that the marks of the town engineer be addressed throughout the next submission, please.

Linda Rogers: Does everyone understand the motion? Any questions or changes to the motion? Is there a second?

Ted Kanakos: I'll second.

Linda Rogers: We have a motion and a second, all in favor say "Aye", roll call vote:

Ted Kanakos: Yes

Bill Brierly: Yes

Dean Sherman: Yes

Linda Rogers:	Yes
Michael Filicko:	Yes
Louise Frey:	Yes

Linda Rogers: Motion carried.

Mike Kobin: Thank you very much.

**Item #6 – Adjournment:**

Linda Rogers: Being there are no other items on the agenda, we will adjourn.

Motion to adjourn at 8:55 p.m.